

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



# TRANSCRIPT OF RECORD

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**Court of Appeals of the District of Columbia**

**OCTOBER TERM, 1930**

**No. 5313**

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**936**

**DISTRICT OF COLUMBIA, A MUNICIPAL  
CORPORATION, PLAINTIFF IN ERROR,**

*vs.*

**NEVIN BUS LINES, INC., A CORPORATION,**

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**IN ERROR TO THE MUNICIPAL COURT OF THE DISTRICT OF  
COLUMBIA.**

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**FILED OCTOBER 25, 1930.**

**PRINTED DECEMBER 3, 1930.**

# Court of Appeals of the District of Columbia

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DISTRICT OF COLUMBIA, A MUNICIPAL  
CORPORATION, PLAINTIFF IN ERROR,

*vs.*

NEVIN BUS LINES, INC., A CORPORATION,  
DEFENDANT IN ERROR.

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IN ERROR TO THE MUNICIPAL COURT OF THE DISTRICT OF  
COLUMBIA.

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# Court of Appeals of the District of Columbia

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No. 5313.

DISTRICT OF COLUMBIA, a Municipal Corporation, Plaintiff  
in Error,

vs.

NEVIN BUS LINES, INC., a Corporation, Defendant.

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1 Municipal Court of the District of Columbia.

No. A-6454.

DISTRICT OF COLUMBIA, a Municipal Corporation, Plaintiff

vs.

NEVIN BUS LINES, INC., a Corporation, Defendant.

UNITED STATES OF AMERICA,  
*District of Columbia, ss:*

Be it remembered that in the Municipal Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:

2 In the Municipal Court of the District of Columbia.

*Declaration and Bill of Particulars.*

Filed October 21, 1929.

Declaration.

The plaintiff, District of Columbia, a municipal corporation, sues the defendant, the Nevin Bus Lines, Inc., a corporation doing business in the District of Columbia, for that

heretofore, to wit, during the month of October, 1929, and prior thereto, the defendant was a public utility doing business in the District of Columbia and was a common carrier for hire, transporting passengers within the District of Columbia, and as such was and is subject to all of the provisions of Section 8 of the Act of Congress approved March 4, 1913, said Section being known as the law creating the Public Utilities Commission of the District of Columbia (37 U. S. Stats. 974), and required to comply and obey all orders of the Public Utilities Commission of the District of Columbia created by the aforesaid Act, and the said Public Utilities Commission acting under the authority of the aforementioned Act of Congress passed Order No. 725 on October 15, 1928, and Order No. 730, amending Order No. 725, on October 25, 1928, said Orders being as follows:

“Order No. 725.

P. U. C. No. 2832.

October 15, 1928.

In the matter of the application of the Nevin Bus Lines, Inc., to operate busses within the District of Columbia.

The Commission having before it the application of The Nevin Bus Lines, Inc., to operate a motor bus line for interstate transportation only, over a certain defined route in the District of Columbia, it is ordered:

3        1. That the Nevin Bus Lines, Inc., are hereby authorized to operate busses for interstate transportation only, over the following route:

From the District Line along Bladensburg Road, Maryland Avenue, B Street, First Street, Pennsylvania Avenue to 11th Street, south on 11th to C Street, west on C to 13th, north to Pennsylvania Avenue, thence to the terminal at 12th Street and Pennsylvania Avenue, Northwest, returning to the District Line over the same route.

2. That these busses shall not be permitted to take on or discharge passengers at any point in the District of Columbia other than at terminal of the line.

3. That these vehicles be operated in accordance with the Commission's Order No. 711, and with all other laws and regulations applicable thereto.

4. That this order take effect immediately and remain in force until otherwise ordered by the Commission.

JNO. W. CHILDRESS,  
HARRISON BRAND, JR.,  
W. B. LADUE,

*Public Utilities Commission of  
the District of Columbia.*

A true copy:

E. J. MILLIGAN, (Signed.)  
*Acting Executive Secretary.*

“Order No. 730.

P. U. C. No. 2832.

October 25, 1928.

In the matter of the application of the Nevin Bus Lines, Inc., to operate busses within the District of Columbia.

Amending Order No. 725.

By the Commission: The Commission having before it the application of The Nevin Bus Lines, Inc., for a change in its bus route as laid down in the Commission's Order No. 725, it is ordered:

4 (1) That the route laid down in Paragraph (1) of Order No. 725, be amended to read:

From the District Line to 503 - 14th Street, Northwest, and return, via Bladensburg Road, Maryland Avenue, B Street, East First Street, Union Station Plaza, E Street, 14th Street, F Street, 13th Street, Pennsylvania Avenue, 11th Street, E Street, Union Station Plaza, East First Street, B Street, Maryland Avenue and Bladensburg Road.

(2) That paragraph (2) of Order No. 725 be rescinded.

JNO. W. CHILDRESS,  
HARRISON BRAND, JR.,  
W. B. LADUE,

*Public Utilities Commission of  
the District of Columbia.*

A true copy:

\_\_\_\_\_,

*Executive Secretary.*

That said Order No. 730 has not been rescinded or repealed and Order No. 725 has not been rescinded or repealed except as set forth in Order No. 730. That the said defendant on October the 8th, 9th, 10th, 11th and 12th, 1929, without the authority of the Public Utilities Commission of the District of Columbia, and in violation of Orders No. 725 and 730 of the Public Utilities Commission of the District of Columbia, did operate its bus or busses over a route not authorized by the said Order No. 730 in that the defendant caused said bus or busses to be operated over, along and upon Pennsylvania Avenue between Fourteenth and Fifteenth Streets, Northwest; Fifteenth Street between Pennsylvania Avenue and F Streets, Northwest; F Street between Fifteenth and Fourteenth Streets, Northwest; and E Street between Thirteenth and Fourteenth Streets, Northwest, all in the District of Columbia. The plaintiff alleges that the said changes by the defendant of its route was in violation of the said Orders No. 725 and 730. Wherefore, under the provisions of paragraphs 85 and 87 of the said Act which provide:

5       “Par. 85. That if any public utility shall violate any provision of this section, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided, or shall fail, neglect, or refuse to obey any lawful requirement or order made by the commission, or any judgment or decree made by any court upon its application, for every such violation, failure, or refusal such public utility shall forfeit and pay to the District of Columbia the sum of \$200 for each such offense. In construing and enforcing the provisions of this paragraph, the act, omission, or failure of any officer, agent, or other person acting for or employed by any public utility acting within the scope of his employment and instructions shall in every case be deemed to be the act, omission, or failure of such public utility.

“Par. 87. That every day during which any public utility, or any officer, agent, or employee thereof, shall fail knowingly or willfully to observe and comply with any order or direction of the commission, or to perform any duty enjoined by this section, shall constitute a separate and distinct violation of such order, or direction, or of this section, as the case may be.”

defendant has become, and is indebted and liable to forfeit and pay to the District of Columbia the sum of \$200.00 for each and every day during which said violation of said Orders No. -25 and 730 of the said Public Utilities Commission of the District of Columbia has continued, said days and said violations being the number of five to the date of the filing of this suit and the defendant is liable to forfeit any pay to the District of Columbia by virtue of said Orders the sum of \$1000.00, and the plaintiff says that by

6       reason of the violation by the defendant of said  
Orders as aforesaid, on the days aforesaid, a cause  
of action has accrued to the plaintiff by force of the  
statute in such cases made and provided, to have of and  
from the said defendant the sum of \$1000.00.

Wherefore, the plaintiff claims of the defendant the sum of \$1000.00 and costs, exclusive of all set-offs and just grounds of defense.

W. W. BRIDE,  
R. E. LYNCH,  
*Attorneys for Plaintiff.*

*Bill of Particulars.*

Filed October 21, 1929.

Amount due the District of Columbia under paragraphs 85 and 87 of the law creating the Public Utilities Commission of the District of Columbia from the Nevin Bus Lines, Inc., for violation of Orders No. 725 and 730 on October 8th, 9th, 10th, 11th and 12th, 1929; \$200.00 for each violation, \$1000.00.

W. W. BRIDE,  
ROBERT E. LYNCH,  
*Attorneys for Plaintiff.*

*Demurrer to Declaration.*

Filed October 29, 1930.

Comes now the defendant, The Nevin Bus Lines, Inc., and says that the declaration is bad in substance.

DARR, DARR & ESPEY,  
By SEFTON DARR,  
*Attorneys for Defendant.*

Note: Among the points of law to be argued in support of the foregoing demurrer the following will be noticed:

7        1. That the declaration does not state a cause of action in law against the defendant.

2. That the declaration shows on its face that the defendant is engaged in the transportation of interstate passengers and is, therefore, not subject to the regulations of the Public Utilities Commission of the District of Columbia.

3. That the declaration shows on its face that the penalty assessed by the Public Utilities Commission of the District of Columbia, under the Act of Congress referred to in the declaration, is an order regulating and controlling interstate commerce which is contrary to the Constitution of the United States and the laws of the United States in relation thereto.

4. That the declaration is inconsistent in that it sets forth that the defendant is engaged in the transportation of passengers within the District of Columbia, and that the order of the Public Utilities Commission of the District of Columbia alleged to have been violated by the defendant, describes the defendant as being an interstate carrier of passengers for hire.

5. That the imposition of the penalty against the defendant by the Public Utilities Commission of the District of Columbia is contrary to law and the statutes of the United States.

6. That it appears on the face of the declaration that the Public Utilities Commission, under the Act of Congress creating the same and the amendments thereto, has no control over and cannot make regulations interfering with the free and unhampered transportation of interstate passengers.

7. That it appears on the face of the declaration that the defendant is engaged exclusively in interstate transportation of passengers, and that a penalty has been assessed against it for an alleged violation of an or-

8        der of the Public Utilities Commission of the District of Columbia because of an alleged deviation of a route prescribed by said Public Utilities Commission for the defendant to follow while engaging in interstate commerce.

8. For such other and further reasons as appear on the face of the declaration.

DARR, DARR & ESPEY,  
By SEFTON DARR,  
*Attorneys for Defendant.*

*Demurrer Overruled.*

Mins. 45, Page 342.

December 16, 1929: Upon consideration of defendant's demurrer to plaintiff's declaration filed herein, it is ordered that said demurrer be and the same is hereby overruled. Defendant granted ten days in which to plead.

*Pleas to the Declaration.*

Filed January 6, 1930.

Comes now the defendant, The Nevin Bus Lines, Inc., a corporation, by its attorneys, and for a plea to the declaration filed herein says:

1. That it denies that during the month of October, 1929, and prior thereto it was a public utility doing business in the District of Columbia and was a common carrier for hire transporting passengers within the District of Columbia, and that it is or was subject to the provisions of Section 8 of the Act of Congress, approved March 4, 1913, described in said declaration, but avers the fact to be that during the month of October, 1929 and prior thereto it was engaged exclusively in the interstate transportation of passengers for hire, and was not and is not engaged in transporting passengers within the District of Columbia,  
9 but was and is engaged in transporting passengers from the District of Columbia to a point or points outside of the District of Columbia, and is, therefore, not required to comply and obey orders of the Public Utilities Commission of the District of Columbia.

2. And for a further plea to the declaration defendant says that at all times it has obeyed and performed all legal orders and regulations of the Commissioners of the District of Columbia, which said orders and regulations said Commissioners are authorized to make and promulgate in connection with interstate transportation of passengers for hire from the District of Columbia to points without the District of Columbia.

3. And for a further plea to the declaration defendant denies the rights of the Public Utilities Commission of the

District of Columbia to promulgate and make any orders of regulations governing the operation of interstate commerce from and through the District of Columbia, said Public Utilities Commission of the District of Columbia being created by an Act of Congress for the regulation of interstate carriers for hire, operating exclusively or in part in the District of Columbia as such carrier.

4. And for a further plea to the declaration defendant denies that it is indebted to the District of Columbia in the sum of One Thousand Dollars (\$1,000.00), or in any other sum whatsoever for that the said District of Columbia has no right or authority in law to assess any penalty or forfeit against the defendant on account of the matters and things stated in the declaration.

5. And for a further plea to the declaration defendant says that the order of the Public Utilities Commission on account of the alleged violation of which plaintiff seeks judgment, is unfair and discriminates against your  
10 defendant in that said order is applicable only to your defendant and does not apply to all carriers of interstate passengers and freight through and in the District of Columbia, and that said order of said Public Utilities Commission is an unreasonable one and is a violation of the Constitution of the United States and the laws passed by Congress thereunder.

DARR, DARR & ESPEY,  
By SEFTON DARR,  
*Attorneys for Defendant.*

11 In the Municipal Court of the District of Columbia.

No. A-6454.

DISTRICT OF COLUMBIA, Plaintiff,

vs.

NEVIN BUS LINES, Inc., Defendant.

*Bill of Exceptions.*

Be it remembered that the above entitled cause came on for trial before Judge Nathan Cayton, of the Municipal Court of the District of Columbia, plaintiff being represented by Messrs. William W. Bride and Robert E. Lynch, and the defendant by Mr. Sefton Darr. The plaintiff in order to prove the issue on its part offered and introduced

evidence tending to prove the facts as set out in the plaintiff's declaration herein.

Whereupon, the plaintiff offered in evidence, and the same were admitted, certified copies of order Nos. 725 and 730 of the Public Utilities Commission of the District of Columbia, which are as follows:

Order No. 725.

P. U. C. No. 2832.

October 15, 1928.

In the matter of the application of the Nevin Bus Lines, Inc., to operate busses within the District of Columbia.

The Commission having before it the application of the Nevin Bus Lines, Inc., to operate a motor bus line for interstate transportation only, over a certain defined route in the District of Columbia, it is ordered:

12      1. That the Nevin Bus Lines, Inc., are hereby authorized to operate busses for interstate transportation only, over the following route:

From the District Line along Bladensburg Road, Maryland Avenue, B Street, First Street, Pennsylvania Avenue to 11th Street, south on 11th to C Street, west on C to 13th, north to Pennsylvania Avenue, thence to the terminal at 12th Street and Pennsylvania Avenue, northwest, returning to the District Line over the same route.

2. That these busses shall not be permitted to take on or discharge passengers at any point in the District of Columbia other than at terminal of the line.

3. That these vehicles be operated in accordance with the Commission's Order No. 711, and with all other laws and regulations applicable thereto.

4. That this order take effect immediately and remain in force until otherwise ordered by the Commission.

JNO. W. CHILDRESS,  
HARRISON BRAND, JR.,  
W. B. LADUE,

*Public Utilities Commission of  
the District of Columbia.*

A true copy:

[SEAL.]

\_\_\_\_\_,  
*Executive Secretary.*

Order No. 730.

P. U. C. No. 2832.

October 25, 1928.

In the matter of the application of the Nevin Bus Lines, Inc.,  
to operate busses within the District of Columbia.

Amending Order No. 725.

By the Commission: The Commission having before it the application of the Nevin Bus Lines, Inc., for a change in its bus route as laid down in the Commission's Order No. 725, it is ordered:

(1) That the route laid down in Paragraph (1) of Order No. 725, be amended to read:

From the District Line to 503 - 14th Street, Northwest, and return, via Bladensburg Road, Maryland Avenue, B Street, East First Street, Union Station Plaza, E Street, 14th Street, F Street, 13th Street, Pennsylvania Avenue, 11th Street, E Street, Union Station Plaza, East First Street, B Street, Maryland Avenue and Bladensburg Road.

(2) That Paragraph (2) of Order No. 725 be rescinded.

JNO. W. CHILDRESS,  
HARRISON BRAND, JR.,  
W. B. LADUE,

*Public Utilities Commission of  
the District of Columbia.*

A true copy:

[SEAL.]

\_\_\_\_\_,  
*Executive Secretary.*

RGK:NHH.

Whereupon, **Thomas M. Gorsuch**, a witness produced on behalf of the plaintiff testified that he was an Inspector for the Public Utilities Commission during October 1929, and had observed in that month the route over which the Nevin Bus Lines, Inc., operated its busses; that on October 8, 1929, a bus of the defendant corporation operated from 14th and Pennsylvania Avenue north on 14th

Street to F Street; east on F Street to 13th Street; south on 13th Street to E Street; west on E Street to 14th Street; continuing west on Pennsylvania Avenue to 15th Street; stopping at 1421 Pennsylvania Avenue every trip that it made; and then north on 15th Street to F Street; and east on F Street to 14th Street; south on 14th Street to Pennsylvania Avenue; and east on Pennsylvania Avenue and over the route from 13th Street on; that he is acquainted with the authorized route established by the Commission's Orders Nos. 725 and 730; that on October 8, 1929, the bus took on passengers when it stopped at 1421 Pennsylvania Avenue; that on October 9, 1929, the busses of the Nevin Bus Lines, Inc., traveled over the same route as they did on October 8th; that the terminal of the defendant is located at 503-14th Street; that there appeared on the busses observed by the witness "Nevin Bus Lines" and all of them were marked "New York", but witness did not know whether they went to New York. On October 10, 1929, witness against observed the busses of the defendant and that the same proceeded over the same route as they did on October 8th, as heretofore described; that the bus took on passengers at 1421 Pennsylvania Avenue, and on the 12:30 trip the bus took on passengers on the southeast corner of 14th Street and Pennsylvania Avenue; that he observed the busses of the defendant which left the terminal at 503-14th Street, N. W. on October 11, 1929, and that they proceeded over the same route as heretofore stated, as of October 8th; there were passengers in the bus.

Upon cross examination witness stated that he checked the route of the busses by standing on the northeast corner of 14th Street and Pennsylvania Avenue and would observe the bus proceed north on 14th Street and turn east into F Street; he would proceed east on E Street and would

15      wait for the bus to make the turn at the corner of 13th and E Street. Then he would proceed west on

E Street and Pennsylvania Avenue and observe the bus stop in front of 1421 Pennsylvania Avenue; then he would return to the corner of 14th Street and Pennsylvania Avenue and observe the bus make the turn at 15th Street and Pennsylvania Avenue; and later that the same bus would turn into 14th Street from F Street; that the witness observed the busses from 9:30 A. M. to 4:30 P. M. That he

observed the bus that left at 11:30 A. M. and at 2:30 P. M.; that there is a heavy congestion of traffic at 14th and F Street at 11:30 A. M. and at 2:30 P. M.; that the witness could walk one block while the busses would travel two blocks in that heavy congestion of traffic.

Whereupon over objection and exception of counsel for the plaintiff, upon the ground that the same was immaterial and irrelevant to the issues in the case and that the operations of other vehicles could in no way be determinative of the issues in this case, the court permitted the witness to testify in answer to questions propounded by counsel for the defendant on cross examination as follows: That the witness has trailed no busses other than those of the defendant; that it was by order of Commissioner Hartman that he trailed the busses of the defendant; that he reported his findings to Commissioner Hartman and to the Engineer of the Public Utilities Commission, Captain Dunlap; that there are four inspectors employed by the Public Utilities Commission of which the witness is one; that the witness had not received any orders from any member of the Public Utilities Commission, or the Commission itself to trail trucks coming into the District of Columbia and carrying freight; that the witness does not know of any orders of the Public Utilities Commission regulating the transportation of freight regularly coming into the District of Columbia; that on other days the witness has spent practically the entire day trailing the busses of other  
16 bus lines; that he has trailed and observed the route of all of the other busses that come into the District of Columbia.

Objection was entered to the above testimony and exception reserved to the ruling of the Court. Thereupon counsel for the defendant on further cross examination, interrogating the witness asked the following question: "Did you find any deviation on the part of any of those lines from the route prescribed by the Public Utilities Commission?", counsel for plaintiff objected that the witness was being charged with knowledge and notice of the particulars of every order passed by the Public Utilities Commission over a period of years, from 1913 to date. Objection was further made on the ground that it was immaterial and irrelevant to the issue of the case, and irrespective of the

answer of the witness, could in no way be determinative of the issues in the case at bar.

The Court: "Of course, his answer would be limited to the order of which he has knowledge. I will overrule the objection." Exception was reserved and the witness answered "Yes, sir, I did."

The witness was further permitted to testify upon further cross examination over the objection and exception of counsel for the plaintiff as follows: That he made a report to the Public Utilities Commission of the violation of busses of other companies; that the Blue Ridge Transportation was one of the companies that the witness could recall; that there may have been one or two others but it had been a long time ago.

Whereupon on redirect examination the witness testified that the busses that would leave the terminal of the defendant at 503 14th Street were the same ones that would stop in front of 1421 Pennsylvania Avenue; that the busses have numbers and he was unable to check the busses by the numbers.

17 Thereupon, **Augustus C. Putnam** was called as a witness on behalf of the plaintiff and testified that he is one of the Inspectors of the Public Utilities Commission and that on October 8, 1929, he observed the busses of the Nevin Bus Lines, Inc., that the bus No. 1 at 11:30 A. M. on said date crossed 14th Street going west on Pennsylvania Avenue and stopped at 1421 Pennsylvania Avenue where two persons boarded the bus; the bus then proceeded to 15th Street, north on 15th Street and thence east on F Street to 14th Street and south on 14th Street to Pennsylvania Avenue and made a left turn east on Pennsylvania Avenue; that on October 9th he observed the bus of the defendant and that it took the same route as that described by him as of October 8th.

Whereupon witness on cross examination, over objection and exception of counsel for plaintiff upon the same grounds as those heretofore stated, the witness was permitted to testify that he did not know of any orders of the Public Utilities Commission prescribing routes for the carriers of freight in the District of Columbia; that he had not been furnished with copies of any such orders and had not been directed to trail carriers of freight in the District of Columbia; that he had followed busses of lines other

than the defendant's, one of which was the Eastern Motor Coach Service and another the Colonial. Witness could not remember all of the bus lines that he had observed deviate from their route since he was made an Inspector; that the Eastern Motor Coach Service stops at 1421 Pennsylvania Avenue since March 1930; that busses of other companies have deviated from their routes and he reported it to the Public Utilities Commission; that he has observed the Greyhound lines, and in fact he had observed most all of the bus lines, but could not remember whether he ever saw the Greyhound or the P. R. T. operate off their route; that the Blue Ridge Transportation Company and the Colonial were running busses from 1421 Pennsylvania Avenue at the time he observed them. All of the above testimony given on cross examination was over the objection and exception of counsel for the plaintiff.

18 Whereupon plaintiff called **Henry B. Hoysradt**, who testified that he is an Inspector of the Public Utilities Commission and that on October 10, 1929, he observed the 12:30 bus of the Nevin Bus Lines, Inc.; that same proceeded north on 14th Street to F Street, east on F Street to 13th Street, south on 13th Street to E Street, west on E Street and Pennsylvania Avenue, stopping at 1421 Pennsylvania Avenue and continuing west on Pennsylvania Avenue to 15th Street, north on 15th Street to F, east on F Street to 14th Street, south on 14th Street, stopping at the corner of 14th and Pennsylvania Avenue, where it took on a couple of passengers and then east on Pennsylvania Avenue; that he was sure it was the same bus that circled the two blocks; that on October 11, 1929, the bus took the same route as that heretofore described as of October 10, 1929.

Whereupon witness on cross examination testified that he received his orders from Commissioner Hartman, a member of the Public Utilities Commission, and that he reported to the Chief Clerk of the Commission.

Whereupon on cross examination the witness testified, over objection on the grounds heretofore stated, and exception was noted, that he observed other bus lines since his employment as Inspector, one of which was the Inter-City Bus Company that runs to Baltimore from 9th and K Streets, this city; that he could not remember any other line that he noticed; that he observed a deviation in the

busses operated by the Inter-City Bus Company, which he reported to the Commission; that he made no investigation for the purpose of determining what routes were being taken by carriers of freight in the District of Columbia, motor trucks and automobiles; that he does not know of any routes prescribed for motor trucks carrying freight in the District of Columbia.

Whereupon **Earl V. Fisher** was called by counsel for plaintiff and testified that he is the Executive Secretary of the Public Utilities Commission; that on October 10, 1929, he went to the office of the Nevin Bus Lines, Inc., and had a conversation with Mr. Edwards, who is  
19 the Manager of the Company. The substance of the conversation was "I wanted to know—I asked Mr. Edwards if the busses of the Nevin Bus Lines went to the terminal at 1421 Pennsylvania Avenue, and he said 'They did'. That is all the conversation I had with him."

Whereupon counsel for defendant asked the witness Fisher whether there is any order of the Public Utilities Commission fixing the routes for carriers of freight in the District of Columbia, and upon objection being made by plaintiff, upon the grounds theretofore stated, the Court ruled that it was not proper cross examination, and defendant's counsel announced his willingness to make Mr. Fisher his own witness for the purpose of these questions, and the witness thereupon testified, over objection and exception of the plaintiff, that there is no order of the Public Utilities Commission regulating the carrying of freight in the District of Columbia, and that there was no such order in existence on October 8th to 12th, inc., 1929; that to the witness' best recollection the Public Utilities Commission prescribed the rules and regulations concerning the routes and regulation of motor coaches doing interstate business in the District of Columbia some time in the early part of 1928. The witness could not state whether or not the Public Utilities Commission has caused an investigation to be made for the purpose of determining the extent of interstate freight by motor busses in the District of Columbia.

Whereupon the plaintiff called **William M. Nevin**, who testified that he is the Secretary of the Nevin Bus Lines, Inc., which has a terminal at 503 14th Street, N. W.; that tickets are sold at the terminal to passengers for use on

the bus; that passengers pay their money at the said terminal for the tickets; that passengers enter the bus at the terminal, 503 14th Street, N. W., that the passengers are not transported in the District of Columbia, and the bus moves through the District of Columbia, but that they do not discharge passengers in the District of Columbia who get on in the District of Columbia; that the tickets are collected when the passengers alight from the bus; that passengers get on the busses at the terminal and that the busses of the defendant company move in the District of Columbia with passengers on them who purchase their tickets at the terminal, 503 - 14th Street, N. W.

Whereupon, plaintiff rested its case. Defendant moved the court to enter a finding for the defendant, which motion was, after argument by counsel and consideration by the court, granted. That in opposition to defendant's motion for a finding upon plaintiff's case counsel for plaintiff did not oppose the same on the ground that the defendant had offered testimony by the witness Fisher, nor did counsel for the plaintiff raise such question in said argument, nor was a motion for a new trial filed.

Thereupon, and as all of the said exceptions were duly noted as aforesaid and duly entered upon the minutes of the court, and in order to make the same part of the record herein, which is hereby ordered, so that the plaintiff may have its case reviewed on appeal, the plaintiff by its attorneys move the court to sign and seal this, its Bill of Exceptions, to have the same force and effect as if each and every one of its exceptions had been separately signed and sealed, which motion is granted by the court; thereupon the plaintiff tenders this, its Bill of Exceptions, and requests the court to sign and seal the same as containing the substance of all the evidence adduced at the trial, which is accordingly done, now for then, this 14th day of October, 1930.

NATHAN CAYTON,  
*Judge.*

21 *Finding and Judgment for Defendant.*

Mins. 49, p. 43.

March 27, 1930—Comes now the parties hereto and thereupon this cause being heard and submitted the Court finds in favor of the defendant.

Mins. 49, p. 105.

April 2, 1930—It appearing under Rule of Court that judgment on finding in this cause should be entered, it is so ordered. Wherefore, it is considered that plaintiff recover nothing by this action, defendant go hence without day, be for nothing held and recover of plaintiff his costs of defense.

*Assignment of Errors.*

Filed May 7, 1930.

Comes now the plaintiff, the District of Columbia, in the above entitled cause, by counsel, and assigns the following as errors committed by the Court:

1. In admitting testimony over the objection and exception of the plaintiff.
2. In entering a finding and judgment for the defendant.

W. W. BRIDE,  
R. E. LYNCH,  
*Attorney- for Plaintiff.*

Service of a copy of the foregoing designation of record acknowledged this 6th day of May, 1930.

SEFTON DARR,  
*Attorney for Defendant.*

22

*Designation of Record.*

Filed May 7, 1930.

Comes now the District of Columbia, by counsel, in the above entitled cause and designates the parts of the record which it desires to have included in the transcript, said parts of the record being considered sufficient for the termination of the questions raised on appeal:

1. Declaration and Bill of Particulars.
2. Demurrer.
3. Memo: Demurrer overruled.
4. Pleas.
5. Bill of Exceptions.
6. Memo: Finding and judgment for defendant.
7. Assignment of Errors.

W. W. BRIDE,  
R. E. LYNCH,  
*Attorneys for Plaintiff.*

the bus; that passengers pay their money at the said terminal for the tickets; that passengers enter the bus at the terminal, 503 14th Street, N. W., that the passengers are not transported in the District of Columbia, and the bus moves through the District of Columbia, but that they do not discharge passengers in the District of Columbia who get on in the District of Columbia; that the tickets are collected when the passengers alight from the bus; that passengers get on the busses at the terminal and that the busses of the defendant company move in the District of Columbia with passengers on them who purchase their tickets at the terminal, 503 - 14th Street, N. W.

Whereupon, plaintiff rested its case. Defendant moved the court to enter a finding for the defendant, which motion was, after argument by counsel and consideration by the court, granted. That in opposition to defendant's motion for a finding upon plaintiff's case counsel for plaintiff did not oppose the same on the ground that the defendant had offered testimony by the witness Fisher, nor did counsel for the plaintiff raise such question in said argument, nor was a motion for a new trial filed.

Thereupon, and as all of the said exceptions were duly noted as aforesaid and duly entered upon the minutes of the court, and in order to make the same part of the record herein, which is hereby ordered, so that the plaintiff may have its case reviewed on appeal, the plaintiff by its attorneys move the court to sign and seal this, its Bill of Exceptions, to have the same force and effect as if each and every one of its exceptions had been separately signed and sealed, which motion is granted by the court; thereupon the plaintiff tenders this, its Bill of Exceptions, and requests the court to sign and seal the same as containing the substance of all the evidence adduced at the trial, which is accordingly done, now for then, this 14th day of October, 1930.

NATHAN CAYTON,  
*Judge.*

21 *Finding and Judgment for Defendant.*

Mins. 49, p. 43.

March 27, 1930—Comes now the parties hereto and thereupon this cause being heard and submitted the Court finds in favor of the defendant.

Mins. 49, p. 105.

April 2, 1930—It appearing under Rule of Court that judgment on finding in this cause should be entered, it is so ordered. Wherefore, it is considered that plaintiff recover nothing by this action, defendant go hence without day, be for nothing held and recover of plaintiff his costs of defense.

*Assignment of Errors.*

Filed May 7, 1930.

Comes now the plaintiff, the District of Columbia, in the above entitled cause, by counsel, and assigns the following as errors committed by the Court:

1. In admitting testimony over the objection and exception of the plaintiff.
2. In entering a finding and judgment for the defendant.

W. W. BRIDE,  
R. E. LYNCH,  
*Attorney- for Plaintiff.*

Service of a copy of the foregoing designation of record acknowledged this 6th day of May, 1930.

SEFTON DARR,  
*Attorney for Defendant.*

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*Designation of Record.*

Filed May 7, 1930.

Comes now the District of Columbia, by counsel, in the above entitled cause and designates the parts of the record which it desires to have included in the transcript, said parts of the record being considered sufficient for the termination of the questions raised on appeal:

1. Declaration and Bill of Particulars.
2. Demurrer.
3. Memo: Demurrer overruled.
4. Pleas.
5. Bill of Exceptions.
6. Memo: Finding and judgment for defendant.
7. Assignment of Errors.

W. W. BRIDE,  
R. E. LYNCH,  
*Attorneys for Plaintiff.*

Service of a copy of the foregoing designation of record acknowledged this 6th day of May, 1930.

SEFTON DARR,  
*Attorney for Defendant.*

23 Filed Apr. 19, 1930, Municipal Court, District of  
Columbia.

UNITED STATES OF AMERICA, ss:

The President of the United States, to the Honorable  
*Honorable* Nathan Cayton, Judge of the Municipal Court  
of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Municipal Court, before you, between District of Columbia, plaintiff, and The Nevins Bus Lines, Inc., defendant, No. A-6454, a manifest error hath happened to the great damage of the said plaintiff as by its complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 20 days from the settling of the bill of exceptions, or within such additional time after the expiration of the 20 days as the court below or a judge thereof for sufficient cause shall allow; that the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable George E. Martin, Chief Justice of the said Court of Appeals, the 18th day of April, in the year of our Lord one thousand nine hundred and thirty.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,  
*Clerk of the Court of Appeals  
of the District of Columbia.*

Allowed by

CHAS. H. ROBB,

*Associate Justice of the Court of Appeals of the  
District of Columbia.*

24 Municipal Court of the District of Columbia.

UNITED STATES OF AMERICA,

*District of Columbia, ss:*

I, Blanche Neff, Clerk of the Municipal Court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 24, both inclusive, to be a true and correct transcript of the record, according to direction of counsel herein filed, copy of which is made part of this transcript, in Cause, At Law, No. A 6454, wherein District of Columbia, a municipal Corporation, is plaintiff, and Nevin Bus Lines, Incorporated, a corporation, is defendant, as the same that remains upon the files and of record in said Court.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 25th day of October, 1930.

[Seal Municipal Court, District of Columbia.]

BLANCHE NEFF,

*Clerk.*

Endorsed on cover: In error to the Municipal Court. No. 5313. District of Columbia, a Municipal Corporation, Plaintiff in error, vs. Nevin Bus Lines, Inc., a Corporation. Court of Appeals, District of Columbia, filed Oct. 25, 1930. Henry W. Hodges, Clerk.